

1 RAOUL D. KENNEDY (STATE BAR NO. 40892)  
[Raoul.Kennedy@skadden.com](mailto:Raoul.Kennedy@skadden.com)  
2 RICHARD S. HORVATH, JR. (STATE BAR NO. 254681)  
[Richard.Horvath@skadden.com](mailto:Richard.Horvath@skadden.com)  
3 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
525 University Avenue, Suite 1100  
4 Palo Alto, California 94301  
Telephone: (650) 470-4500  
5 Facsimile: (650) 470-4570  
  
6 PAUL M. ECKLES (STATE BAR NO. 181156)  
[Paul.Eckles@skadden.com](mailto:Paul.Eckles@skadden.com)  
7 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
4 Times Square  
8 New York, New York 10036  
Telephone: (212) 735-3000  
9 Facsimile: (212) 735-2000

10 Attorneys for Specially Appearing Defendant  
HARPERCOLLINS PUBLISHERS L.L.C.  
11

12 **UNITED STATES DISTRICT COURT**  
13 **NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

14 ANDREAS ALBECK, Individually and on )  
Behalf of All Others Similarly Situated, )

15 Plaintiff, )

16 vs. )

17 APPLE INC.; HACHETTE BOOK GROUP, )  
INC.; HARPERCOLLINS PUBLISHERS, )  
18 INC.; MACMILLAN PUBLISHERS, INC.; )  
19 PENGUIN GROUP (USA) INC.; and SIMON )  
& SCHUSTER, INC., )

20 Defendants. )  
21 )  
22 )

**CASE NO. 3:11-CV-04110-EMC**

**STIPULATION AND [PROPOSED]  
ORDER REGARDING (1) EXTENDING  
TIME TO RESPOND TO THE  
COMPLAINT AND (2) CASE  
COORDINATION**

**STIPULATION AND [PROPOSED] ORDER REGARDING (1) EXTENDING TIME TO  
RESPOND TO THE COMPLAINT AND (2) CASE COORDINATION**

WHEREAS, there have been multiple actions related to the above-captioned action filed in both the Northern District of California and the Southern District of New York (the “Actions”);

WHEREAS, on September 2, 2011, the Court related the above-captioned action to *Petru, et. al. v. Apple, Inc., et al.*, C.A. No. 3:11-03892 (N. D. Cal.);

WHEREAS, on September 9, 2011, the court in the New York Actions entered a stipulation and order providing that the time for defendants Hachette Book Group, Inc., HarperCollins Publishers L.L.C. (incorrectly sued as “HarperCollins Publishers, Inc.”), Holtzbrinck Publishers, LLC d/b/a Macmillan (incorrectly sued as Macmillan Publishers, Inc.), Penguin Group (USA) Inc., Simon & Schuster, Inc., and Apple, Inc. (collectively, “Defendants”) to answer, move, or otherwise respond to the complaints in the New York Actions would be enlarged to the 60th day after the Actions have been consolidated in a single forum and a consolidated amended complaint has been filed (or lead plaintiffs’ counsel has announced by filed notice that it will not be filing a consolidated amended complaint);

WHEREAS, on November 2, 2011, pursuant to parties’ stipulation, the Court entered an order providing that Defendants’ time to answer, move, or otherwise respond to the complaint in this action would be enlarged until December 15, 2011, and without prejudice to Defendants seeking a further enlargement of the time to answer, move, or otherwise respond;

WHEREAS, pursuant to the Clerk’s Notice dated November 2, 2011, the Initial Case Management Conference in the above-captioned action is scheduled for January 6, 2012;

WHEREAS, on December 9, 2011, the Judicial Panel on Multidistrict Litigation (the “JPML”) issued an order pursuant to 28 U.S.C. § 1407 to transfer *Petru, et. al. v. Apple, Inc., et al.*, C.A. No. 3:11-03892 and *Diamond, et al. v. Apple, Inc., et al.*, C.A. No. 3:11-03954, currently pending in the Northern District of California, to the Southern District of New York and assign them to the Honorable Denise L. Cote for coordinated and consolidated pretrial proceedings

1 with the actions already pending in the Southern District of New York, *In re Electronic Books*  
2 *Antitrust Litigation*, MDL Docket No. 2293 (the “Consolidated New York Actions”);

3 WHEREAS, on December 9, 2011, counsel, who purported to act on behalf of  
4 plaintiffs in ten of the eleven Actions filed in this Court sent a letter to Judge Cote regarding case  
5 administration of the Actions;

6 WHEREAS, lead plaintiffs’ counsel has not yet been appointed in the Consolidated  
7 New York Actions;

8 WHEREAS, the parties anticipate that the remaining Actions currently pending in  
9 this Court will be transferred to Judge Cote for coordinated and consolidated pretrial proceedings  
10 with the Consolidated New York Actions;

11 WHEREAS, the parties have agreed that the response date in this action should not  
12 come prior to the response date stipulated to in the Consolidated New York Actions;

13 WHEREAS, the parties have agreed that further case administration should take  
14 place in connection with the Consolidated New York Actions;

15 WHEREAS, the parties agree that submission of this Stipulation should be without  
16 prejudice to any of Plaintiff’s claims or Defendants’ defenses;

17 WHEREAS, unless otherwise provided for herein, this Stipulation will not modify  
18 the schedule of this case;

19 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and  
20 between Plaintiff and Defendants, as follows:

21 1. Pursuant to Civil Local Rules 6-1, 6-2 and 7-12, Defendants’ time to answer,  
22 move, or otherwise respond to the complaint is hereby extended to the 60th day after a  
23 consolidated amended complaint has been filed in the Consolidated New York Actions (or lead  
24 plaintiffs’ counsel has announced by filed notice that it will not be filing a consolidated amended  
25 complaint);

26 2. Pursuant to Civil Local Rules 16-2 and 7-12, the parties hereby stipulate that  
27 the Initial Case Management Conference with this Court scheduled for January 6, 2011, should be  
28 taken off calendar, as well as all dates required under Federal Rules of Civil Procedure 16 and 26

1 related to that Initial Case Management Conference, without prejudice to Plaintiff's and  
2 Defendants' positions as to the dates on which these events should occur in the Consolidated New  
3 York Actions

4 3. Further case administration, including the negotiation of any brief scheduling  
5 beyond the time for Defendants' time to answer, move, or otherwise respond to the complaint and  
6 any pre-trial conferences governed by Federal Rules of Civil Procedure 16 and 26, shall occur in  
7 connection with the Consolidated New York Actions;

8 4. If any of the Defendants that are a party to this Stipulation responds to a  
9 complaint in any of the Actions prior to the time provided in this Stipulation, Defendants will  
10 respond to the complaint in this action at the same time;

11 5. None of Plaintiff's claims or Defendants' defenses are prejudiced or waived  
12 by its submission of this Stipulation; and

13 6. This stipulation is without prejudice to the right of any party to seek a further  
14 adjustment to any of the dates contained in this stipulation based on future developments

15 DATED: December 14, 2011

16 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

17  
18 By: /s/ Raoul D. Kennedy

19 RAOUL D. KENNEDY

20 525 University Ave., Suite 1100

21 Palo Alto, California 94301

Telephone: (650) 470-4500

Facsimile: (650) 470-4570

22 Attorneys for Specially Appearing Defendant  
23 HARPERCOLLINS PUBLISHERS L.L.C.

24 I, Raoul D. Kennedy, am the ECF User whose ID and password are being used to file this  
25 Stipulation and [Proposed] Order Regarding (1) Extending Time to Respond to the Complaint, and  
26 (2) Case Coordination. In compliance with General Order 45, X.B., I hereby attest that each of the  
27 following signatories has concurred in this filing.  
28

1 SHEARMAN & STERLING LLP

2  
3 By: /s/ James Donato  
4 JAMES DONATO

5 Four Embarcadero Center, Suite 3800  
6 San Francisco, California 94111  
7 Telephone: (415) 616-1100  
8 Facsimile: (415) 616-1199

9 Attorneys for Specially Appearing Defendant  
10 HACHETTE BOOK GROUP, INC.

11 SIDLEY AUSTIN LLP

12 By: /s/ Samuel R. Miller  
13 SAMUEL R. MILLER

14 555 California Street  
15 San Francisco, California 94104  
16 Telephone: (415) 772-1200  
17 Facsimile: (415) 772-7400

18 Attorneys for Specially Appearing Defendant  
19 HOLTZBRINCK PUBLISHERS, LLC D/B/A  
20 MACMILLAN

21 AKIN GUMP STRAUSS HAUER & FELD LLP

22 By: /s/ Reginald D. Steer  
23 REGINALD D. STEER

24 580 California Street, Suite 1500  
25 San Francisco, California 94104-1036  
26 Telephone: (415) 765-9520  
27 Facsimile: (415) 765-9501

28 Attorneys for Specially Appearing Defendant  
PENGUIN GROUP (USA) INC.

WEIL, GOTSHAL & MANGES LLP

By: /s/ Gregory D. Hull  
GREGORY D. HULL

201 Redwood Shores Parkway  
Redwood Shores, California 94065  
Telephone: (650) 802-3000  
Facsimile: (650) 802-3100

Attorneys for Specially Appearing Defendant  
SIMON & SCHUSTER, INC.

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Daniel S. Floyd  
DANIEL S. FLOYD

333 South Grand Avenue  
Los Angeles, CA 90071-3197  
Telephone: (213) 229-7148  
Facsimile: (213) 229-7520

Attorneys for Specially Appearing Defendant  
APPLE INC.

KELLER GROVER LLP

By: /s/ Jade Butman  
JADE BUTMAN

1965 Market Street  
San Francisco, CA 94103  
Telephone: (415) 543-1305  
Facsimile: (415) 543-7861

Attorneys for Plaintiff  
ANDRÉAS ALBECK

PURSUANT TO STIPULATION, IT IS SO ORDERED. The CMC is reset for 6/29/12 at 9:00 a.m.  
A joint CMC statement shall be filed by  
Dated: 12/27, 2011 6/22/12.

